

June 9, 2026

Clerk of Court
United States Court of Appeals for the Ninth Circuit
95 Seventh Street San Francisco, CA 94103

Re: *Hill v. Board of Directors, Peoples College of Law*, No. 25-6536
Citation of Supplemental Authority — Fed. R. App. P. 28(j)

Dear Clerk of Court:

Pursuant to Federal Rule of Appellate Procedure 28(j), Appellant submits *Forward, Inc. v. Macomber*, No. 24-4983 (9th Cir. June 9, 2026) (amended op.), superseding 173 F.4th 1121 (9th Cir. 2026), relevant to Reply 21–24, 40–43, and 44–49.

Forward affirms a dismissal because the named officials lacked a "fairly direct" connection to the alleged violations, holding the action failed "at least against these Defendants." Slip op. at 9. It notes that the panel did not decide whether officials with hands-on responsibility for the challenged conduct could be sued. *Id.* at 11 n.3. The connection inquiry is thus officer- and conduct-specific: the panel examined each defendant's

statutory role and "particular actions," not a categorical bar. *Id.* at 8–9. That confirms Appellant's position that the district court was required to analyze the particular officers, the alleged ongoing conduct, and the prospective-relief theory tendered under Rule 15 — not resolve immunity by label.

Reply 44–49.

Forward does not resolve this appeal and does not compel affirmance because the district court never undertook an officer-by-officer connection analysis. Appellant does not contend that the “fairly direct” standard is relaxed for ongoing-violation theories; he contends that the standard was never applied because the district court disposed of the federal claims on other grounds and denied leave without evaluating the curative allegations tendered under Rule 15 in a reviewable, proffer-specific manner. *Forward* assessed the allegations of an operative complaint; here, the Rule 15 proffers the court was required to evaluate for futility were not analyzed with proffer-specific rationales. Reply 21–24; 1-ER-43–75 (ECF 213); 1-ER-57.

Affirming on *Forward* would require this Court to perform, in the first instance, the connection analysis the district court omitted — on Rule 15 proffers it did not analyze in a reviewable, proffer-specific manner, and on a contested characterization (omission versus affirmative administration of a specific regulatory posture). *Forward* underscores that this inquiry proceeds officer-by-officer and theory-by-theory. Because the dispositive orders supplied none, the limited remand requested in the reply brief remains the appropriate course.

Respectfully submitted,

/s/ Todd R.G. Hill

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CERTIFICATE OF SERVICE

I certify that on June 9, 2026, I electronically filed the foregoing Citation of Supplemental Authority with the Clerk of the Court for the United States Court of Appeals for the Ninth Circuit using the Appellate Case Management/Electronic Case Filing system (ACMS/CM/ECF). All case participants are registered ACMS/CM/ECF users and will be served by the system.

/s/ Todd R.G. Hill